

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 110-6.5 as follows:

6 (725 ILCS 5/110-6.5)

7 Sec. 110-6.5. Drug testing program. The Chief Judge of
8 the circuit may establish a drug testing program as provided
9 by this Section in any county in the circuit if the county
10 board has approved the establishment of the program and the
11 county probation department or pretrial services agency has
12 consented to administer it. The drug testing program must
13 ~~shall~~ be conducted under the following provisions:

14 (a) The court, in the case of a defendant charged with a
15 felony offense or any offense involving the possession or
16 delivery of cannabis or a controlled substance, shall:

17 (1) not consider the release of the defendant on
18 his or her own recognizance, unless the defendant
19 consents to periodic drug testing during the period of
20 release on his or her own recognizance, in accordance
21 with this Section;

22 (2) consider the consent of the defendant to
23 periodic drug testing during the period of release on
24 bail in accordance with this Section as a favorable
25 factor for the defendant in determining the amount of
26 bail, the conditions of release or in considering the
27 defendant's motion to reduce the amount of bail.

28 (b) The drug testing shall be conducted by the pretrial
29 services agency or under the direction of the probation
30 department when a pretrial services agency does not exist in
31 accordance with this Section.

1 (c) A defendant who consents to periodic drug testing as
2 set forth in this Section shall sign an agreement with the
3 court that, during the period of release, the defendant shall
4 refrain from using illegal drugs and that the defendant will
5 comply with the conditions of the testing program. The
6 agreement shall be on a form prescribed by the court and
7 shall be executed at the time of the bail hearing. This
8 agreement shall be made a specific condition of bail.

9 (d) The drug testing program shall be conducted as
10 follows:

11 (1) The testing shall be done by urinalysis for the
12 detection of phencyclidine, heroin, cocaine, methadone
13 and amphetamines.

14 (2) The collection of samples shall be performed
15 under reasonable and sanitary conditions.

16 (3) Samples shall be collected and tested with due
17 regard for the privacy of the individual being tested and
18 in a manner reasonably calculated to prevent
19 substitutions or interference with the collection or
20 testing of reliable samples.

21 (4) Sample collection shall be documented, and the
22 documentation procedures shall include:

23 (i) Labeling of samples so as to reasonably
24 preclude the probability of erroneous identification
25 of test results; and

26 (ii) An opportunity for the defendant to
27 provide information on the identification of
28 prescription or nonprescription drugs used in
29 connection with a medical condition.

30 (5) Sample collection, storage, and transportation
31 to the place of testing shall be performed so as to
32 reasonably preclude the probability of sample
33 contamination or adulteration.

34 (6) Sample testing shall conform to scientifically

1 accepted analytical methods and procedures. Testing
2 shall include verification or confirmation of any
3 positive test result by a reliable analytical method
4 before the result of any test may be used as a basis for
5 any action by the court.

6 (e) The initial sample shall be collected before the
7 defendant's release on bail. Thereafter, the defendant shall
8 report to the pretrial services agency or probation
9 department as required by the agency or department. The
10 pretrial services agency or probation department shall
11 immediately notify the court of any defendant who fails to
12 report for testing.

13 (f) After the initial test, a subsequent confirmed
14 positive test result indicative of continued drug use shall
15 result in the following:

16 (1) Upon the first confirmed positive test result,
17 the pretrial services agency or probation department,
18 shall place the defendant on a more frequent testing
19 schedule and shall warn the defendant of the consequences
20 of continued drug use.

21 (2) A second confirmed positive test result shall
22 be grounds for a hearing before the judge who authorized
23 the release of the defendant in accordance with the
24 provisions of subsection (g) of this Section.

25 (g) The court shall, upon motion of the State or upon
26 its own motion, conduct a hearing in connection with any
27 defendant who fails to appear for testing, fails to cooperate
28 with the persons conducting the testing program, attempts to
29 submit a sample not his or her own or has had a confirmed
30 positive test result indicative of continued drug use for the
31 second or subsequent time after the initial test. The
32 hearing shall be conducted in accordance with the procedures
33 of Section 110-6.

34 Upon a finding by the court that the State has

1 established by clear and convincing evidence that the
2 defendant has violated the drug testing conditions of bail,
3 the court may consider any of the following sanctions:

4 (1) increase the amount of the defendant's bail or
5 conditions of release;

6 (2) impose a jail sentence of up to 5 days;

7 (3) revoke the defendant's bail; or

8 (4) enter such other orders which are within the
9 power of the court as deemed appropriate.

10 (h) The results of any drug testing conducted under this
11 Section shall not be admissible on the issue of the
12 defendant's guilt in connection with any criminal charge.

13 (i) The court may require that the defendant pay for the
14 cost of drug testing.

15 (Source: P.A. 88-677, eff. 12-15-94.)